to give or withhold their approval for a license, and that therefore the law was invalid as depriving the plaintiffs of due process of law and of the equal protection of the law. *Held,* the statute does not vest an arbitrary power in the police and fire commissioners. It prescribes a standard of qualification that is an ascertainable and known one, and is readily understood as a matter of common knowledge. *Manufacturers' and Merchants' Inspection Bureau* v. *Buech* (Wis., 1921), 181 N. W. 125.

In this case, however, while holding that the legislation did not result in a denial of due process of law, nor confer legislative authority on the fire and police commissioners, yet the court held that plaintiffs had stated a good cause of action and were entitled to relief because they alleged that the commissioners capriciously and wrongfully refused to grant the applications. The principles involved in these cases are discussed in 19 MICH. L. REV. 211.

CONSTITUTIONAL LAW—STATUTE REGULATING THE SALE OF TEXT-BOOKS.—Public Acts of Michigan, 1919, No. 380, regulating the sale of school text-books by prohibiting public officers from buying any books except those listed with the state superintendent of schools and at certain fixed prices, *held* constitutional, except as to Section 7, which, in making it unlawful for retail dealers to sell books at higher prices than those listed, without limiting such prohibited sales to school officers, is void as beyond the power of the state. *MacMillan Co.* v. *Johnson* (D. C., S. D., Mich., 1920), 269 Fed. Rep. 28.

Unquestionably, the legislature has the general power to regulate the conditions under which the state may deal with those who are desirous of selling text-books for use in the public schools. *MacQueen* v. *Port Huron,* 194 Mich. 328. Plaintiff publishing company having no vested right to deal with the school authorities, and not being forced to do so, may not then complain because these authorities impose conditions upon which they will purchase such text-books. *Polzin* v. *Rand, McNally & Co.,* 250 Ill. 561. The only invalidity appearing in the act is found in Section 7, providing that no retail dealer shall sell any of the listed books at a price higher than fifteen per cent above the wholesale price and the cost of transportation. Such a provision is an unwarranted interference with the right of contract and the right to engaged in the private business of book-selling at retail, and beyond the power of the state. For this general subject of the right of legislatures to regulate prices, see *Munn* v. *Illinois,* 94 U. S. 113; 19 MICH. L. REV. 74. That statutes regulating the retail prices of books are not unknown, however, appears from similar statutes found in the English enactments of the time of Henry VIII, Chapter 15, and from a statute enacted in New York in 1786. GREENLEAF'S LAWS, p. 275.

CONTRACTS—MORAL CONSIDERATION.—By the terms of an oral contract under which plaintiff had effected a sale of land for defendant a commission of $500 was due. Section 11,981 of MICHIGAN COMPILED LAWS (1915) provides that "Every agreement, promise, or contract to pay any commission

for or upon the sale of any interest in real estate" shall be *void* unless the same or some memorandum thereof be in writing. Defendant gave plaintiff a promissory note for the amount stated, upon which note action was brought. *Held,* the note was an enforceable promise, the consideration therefor being the moral obligation upon defendant to pay plaintiff his commission. *Bagaef* v. *Prokopik* (1920), 212 Mich. 265.

Under the influence of Lord Mansfield, who was obviously impatient with the common law doctrine of consideration (see, for example, *Pillans* v. *Van Mierop,* 3 Burr.* 1663), there was a marked movement about the middle of the eighteenth century to recognize moral obligation, a species of past consideration, as sufficient consideration to support a promise. See *Watson* v. *Turner,* Buller's N. P. 129; *Atkins* v. *Hill,* Cowp. 284; *Barnes* v. *Hedley,* 2 Taunt. 184; *Lee* v. *Muggeridge,* 5 Taunt. *36. Not long after Lord Mansfield's death serious questions were raised as to how far moral consideration should be recognized. In a learned note to *Wennal* v. *Adney,* 3 B. & P. 249 (1804), the cases were examined and the following stated as the proper rule: "An express promise, therefore, as it should seem, can only revive a precedent good consideration, which might have been enforced at law through the medium of an implied promise, had it not been suspended by some positive rule of law, but can give no original right of action, if the obligation on which it is founded never could have been enforced at law, though not barred by any legal maxim or statute provision." In 1831, in *Littlefield* v. *Shee,* 2 B. & Ad. 811, Lord Tenterden expressed doubts as to the Mansfield doctrine, and in *Eastwood* v. *Kenyon,* 11 Ad. & El. 438 (1840), the above quoted rule from the note to *Wennal* v. *Adney* was approved. This is the English view today. See WILLISTON ON CONTRACTS, § 147; LEAKE ON CONTRACTS [6th ed.], 443. In truth, it would seem, as said by Parker, C. J., in *Mills* v. *Wyman,* 3 Pick. 207, that wherever a man has deliberately made a promise he is *morally* obligated to perform. In general, the American courts follow about the same rule as applied in *Eastwood* v. *Kenyon.* See, for example, *Mills* v. *Wyman, supra; Lyell* v. *Walbach,* 113 Md. 524, 33 L. R. A. (N. S.) 741. However, in a few jurisdictions there apparently is a disposition to adhere to the broader view of Lord Mansfield. See *Davis* v. *Morgan,* 107 Ga. 504, applying a statute; *Sutch's Estate,* 201 Pa. 305. The principal case indicates that in Michigan that view is well received, particularly since contracts not complying with the statute there involved are treated as really *void. Scott* v. *Bush,* 26 Mich. 418.

CONTRACTS—VOID AS STIFLING COMPETITION.—Plaintiff and defendant attended a British government auction, and to avoid competition an agreement was made for defendant to bid on their joint account and that whatever he purchased should be divided equally, each paying one-half the purchase money. After the sale defendant repudiated the contract. *Held,* the agreement is unenforceable as being against public policy, at all events where the goods so sold are the property of the public. *Rawlings* v. *General Trading Co.,* [1920] 3 K. B. 30.